



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
 DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
 WASHINGTON, DC 20231
www.uspto.gov

Michael Nieberding
 THOMPSON HINE LLP
 2000 Courthouse Plaza NE
 10 West Second Street
 Dayton, Ohio 45402-1758

In re: Nieberding (petitioner) : DECISION ON REQUEST
 Serial No.: P-110,646 : UNDER 37 CFR 5.25
 Filing date: n/a
 Docket No: 006593-2070

Title: CONVEYOR-TYPE DISHWASHER AND METHOD FOR OPERATING IT

This is a decision on the petition filed on June 6, 2005 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
 - i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
 - ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
 - iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is denied at this time since the requirements of 37 CFR 5.25(a)(3)(iii) have not been fully met. The petition does not suffice since it is not by those who had knowledge and made the actual decision to file the application abroad. In the instant case, those person(s) are the German counsel. Therefore, to fulfill the requirements of 37 CFR 5.25, a verified statement(s) by the German counsel (Meissner, Bolte and Partner) is required. The statements should reference the error and further be directed to the circumstances surrounding the proscribed filing, including discovery of the proscribed filing.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).



Ian J. Lobo
Patent Examiner
(571) 272-6974